 THE NATIONAL ASSEMBLY PAPERS LAID	
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SPECIAL ISSUE

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20th March, 2020

(Legislative Supplement No. 16)

LEGAL NOTICE NO. 33

THE SPECIAL ECONOMIC ZONES ACT

(No. 16 of 2015)

IN EXERCISE of powers conferred by section 39 of the Special Economic Zones Act, 2015, the Cabinet Secretary for Industrialization, Trade and Enterprise Development makes the following Regulations—

THE SPECIAL ECONOMIC ZONES (AMENDMENT)
REGULATIONS, 2020

1. These Rules may be cited as the Special Economic Zones (Amendment) Regulations, 2020. Citation.

2. Regulation 2 of the Special Economic Zones Regulations, 2016 hereinafter referred to as “the principal Regulations” is amended— L.N. 147/2016.

(a) by inserting the following new definitions in proper alphabetical sequence—

“special economic zone residence permit” means a permit issued by the Authority authorising the holder to reside within a special economic zone;

“special economic zone investor” means an individual or business licensed by the Authority to carry out business as a developer, operator, enterprise or business permit holder within a special economic zone;

“special economic zone resident” means any individual who resides within a special economic zone and has been registered as a resident by the Authority;

“special economic zone visitor” means any individual who has been registered with the Authority by a special economic zone resident or entity to be temporarily present in the special economic zone;

“special economic zone worker” means any individual working for a developer, operator, enterprise, resident or business service permit holder, whether as an employee or independent contractor; and

(b) in the definition of “special economic zone end user” by inserting the following paragraph immediately after paragraph (e)—

(f) special economic zone business permit holder.

3. Regulation 11 of the principal Regulations is amended by inserting the following new sub paragraph immediately after sub paragraph (d)— Amendment of regulation 11 of L.N. 147/2016.

- (da) evidence of the capability to finance the planned development outlined in the feasibility study which may include financial analysis, track-record and organizational systems and procedures;

4. Regulation 13 of the principal Regulations is amended by inserting the following new sub paragraph immediately after sub paragraph (g) —

Amendment of regulation 13 of L.N. 147/2016.

- (h) satisfy minimum investment and land size threshold criteria as provided for by the Authority from time to time.

5. Regulation 32 of the principal Regulations is amended —

Amendment of regulation 32 of L.N. 147/2016.

(a) by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) Notwithstanding regulation 31, the one-stop shops shall offer the following services —

- (a) process special economic zone resident registration and business licensing documents and related reporting information required of special economic zone end users, and issue related licenses or certifications;
- (b) process and issue work visa and permits for expatriates operating within the special economic zones;
- (c) process and issue development and construction permits and certificates of occupancy;
- (d) process and issue environmental permits in accordance with the Regulations and the requirements of the relevant Authority;
- (e) evaluate proposals to designate areas as special economic zones;
- (f) evaluate registration applications for special economic zone developers and operators;
- (g) facilitate tax and customs administration requirements for special economic zone end users on behalf of the Kenya Revenue Authority;
- (h) facilitate labour reporting obligations;
- (i) perform inspections and other enforcement activities or coordinate enforcement activities with the relevant government entities;
- (j) provide prompt answers to all questions regarding all government requirements or services;
- (k) respond to complaints by special economic zone end users in relation to special economic zones;
- (l) information on production, marketing, operating plans, finance, export opportunities, recruitment, and training; and

- (m) any other services as deemed necessary by the Authority.
- (b) by inserting the following new paragraph immediately after paragraph (1) —
- (2) The Authority may enter into service-level agreements with other government or private entities to effect the following —
- (a) make all applications for activities not on the negative list pre-recommended by the Commissioner of Customs in fulfilment of section 27(2) of the Act so that no further recommendation is required;
 - (b) ensure that the one-stop shop has the authority and resources to provide as many public services as possible;
 - (c) make available representatives dedicated to the one-stop shop from other relevant government entities;
 - (d) offer utility services and assistance, whether provided by government or private entities through the one-stop shop including connection and payment services, via website, phone, email and through in-person representatives at on-site service centres.
6. Regulation 34 of the principal Regulations is amended —
- (a) by inserting the words “developers, operators, enterprises, business service permit holders and” immediately after the word “zone”;
- (b) by inserting the words “as appropriate” immediately after the words “residents shall”;
- (c) in paragraph (c) by inserting the words “or registration granted” immediately after the word “issued”;
- (d) in paragraph (d) —
- (i) by inserting the words “ or permit” immediately after the words “ date the licence” ;
 - (ii) by inserting the words “ or permit” immediately after the words “ in the licence”;
- (e) in paragraph (j) by inserting the words “operator or developer immediately after the word “enterprise”.
7. Regulation 38 of the principal Regulations is amended in paragraph (1) by inserting the expression “, any relevant national government agency” immediately after the word “planning”.
8. Regulation 41 of the principal Regulations is amended in paragraph (2)(b) by deleting the word “ enterprises” and substituting therefor the words “ end users”.
9. Regulation 42 of the principal Regulations is amended by deleting paragraph (2).

Amendment of
regulation 34 of
L.N. 147/2016.

Amendment of
regulation 38 of
L.N. 147/2016.

Amendment of
regulation 41 of
L.N. 147/2016.

Amendment of
regulation 42 of
L.N. 147/2016.

10. Regulation 43 of the principal Regulations is amended by deleting paragraph (7).

11. Regulation 44 of the principal Regulations is amended by deleting paragraph (5).

Amendment of regulation 45 of L.N. 147/2016.

12. Regulation 45 of the principal Regulations is amended by deleting paragraph (4).

13. The principal Regulations are amended by inserting the following new Part IXA immediately after Part IX —

Insertion of a new Part IXA in L.N. 147/2016

PART IX A – CONDITIONS FOR ENTRY INTO SPECIAL ECONOMIC ZONES

Entry of persons into Special Economic Zones.

50A. (1) Access to a special economic zone is restricted and shall be subject to the —

- (a) presentation of a pass card at the entry point of the special economic zone;
- (b) terms and conditions applicable to the respective pass card.

(2) The Authority or a developer subject to the approval of the Authority, shall establish the type and form of pass cards for —

- (i) special economic zone workers;
- (ii) special economic zone visitors; and
- (iii) special economic zone residents.

(3) A person who wishes to enter a special economic zone shall apply for a pass card in the application form set out in the Schedule.

(4) The Authority may amend the application form set out in paragraph (3) from time to time.

(5) The Authority may charge a fee for the issuance of a pass card as it may determine.

(6) Developers may, subject to approval of the Authority, issue further guidelines regarding access to the special economic zones.

Special Economic Zone Workers.

50B. (1) The Authority or special economic zone developer as the case may be, shall grant a special economic zone worker's pass card to a worker of any nationality where the worker is legally employed by a special economic zone developer, operator, enterprise or business service permit holder.

(2) An application for a special economic worker's pass card shall be accompanied by —

- (a) a certified copy of the worker's employment contract; and

(b) any required authorizations relating to labour or immigration.

(3) The Authority shall have power to request for additional information and where necessary, summon the applicants and require the production of supporting documents before granting a pass card.

(4) The pass card shall be renewable annually.

(5) The Authority or special economic zone developer may revoke the pass card if the worker is in contravention of any provisions of the Act or these Regulations.

Special Economic
Zone Residence
Permits.

50C. (1) The following are eligible for special economic zone residence permits subject to the holder satisfying the following conditions —

- (a) be eligible for a permanent residence permit under the applicable laws.
- (b) be in possession of a valid work permit for the applicable special economic zone;
- (c) is the owner of a special economic zone enterprise or holder of a business service permit;
- (d) any other category of persons as may be approved by the Authority

(2) Special economic zone residence permits shall be valid for the period specified in the permit unless where the permit is revoked.

(3) There shall be no limit or quota on the number of special economic zone residence permits issued by the Authority.

(4) The Authority may issue guidelines to provide for the standards, criteria and procedures for the issuance and revocation of special economic zone residence permits.

(5) The holder of a special economic zone residence permit shall notify the Authority of any changes in his or her residential address within three working days of the date of the change.

Special Economic
Zone Residence
Pass.

50D. (1) The Authority or developer shall grant a special economic zone residence pass card to any persons with a valid special economic zone residence permit.

(2) An application for a special economic zone residence pass card shall be accompanied by a certified copy of a lease or other document validating a right to the residential property.

(3) Where a resident has acquired and maintained a special economic zone residence permit, the special economic zone resident's spouse and dependants shall acquire and maintain the status of special economic zone residence during the period that the principal resident maintains his or her status as a special economic zone resident under these Regulations.

(4) The residence pass shall allow holders access to their place of residence.

(5) The residence pass shall be renewable annually.

Special Economic
Zone Visitor Pass.

50E. (1) The Authority or developer may grant a special economic zone visitor pass card to a special economic zone visitor.

(2) Recipients of special economic zone visitor pass cards shall be subject to specific terms and conditions as may be determined by the Authority.

14. The principal Regulations are amended by inserting the following new regulation immediately after regulation 53 —

Maintenance of an
Electronic Register.

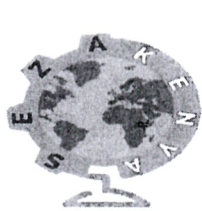
54. (1) Any non-Kenyan intending to invest, do business, work or reside in a special economic zone shall register his or her presence at the one-stop shop within five days of arrival in the special economic zone.

(2) A Kenyan applying for a special economic zone residence permit shall register his or her presence at any one stop shop service centre no later than thirty days of relocation into the special economic zone.

(3) The Authority shall for the purposes of this regulation maintain an electronic register.

SCHEDULE

r.50A(3)



SPECIAL
ECONOMIC
ZONES
AUTHORITY

UAP Old Mutual Tower, 14th Floor,
Upper Hill Road
P.O Box 30418-00100, GPO
Nairobi, Kenya
Tel: +254 20 7863971
Email: info@sezauthority.go.ke
Website: www.sezauthority.go.ke

Part 1-Special Economic Zones Pass Card Application Requirements

(Applications must be completed in NEAT AND LEGIBLE manner)

1. Please Select one of the Special Economic Zone Pass Card Types

Worker Visitor Resident

Application Date (dd/mm/yyyy): ____ / ____ / ____

Have you ever received a Special Economic Zones Pass Card? YES/ NO (please circle)

If yes, please provide the Card

No.: _____

2. PERSONAL DETAILS:

Mrs/Mr/Miss/Ms (please circle) First Name: Middle Name: Last Name:

Gender(please circle): M / F Date of Birth (dd/mm/yyyy): ____ / ____ / ____

Nationality: _____ ID (Kenyan Citizens): _____

Passport Number (Non Kenyans): _____ Expiry

Date(dd/mm/yyyy): ____ / ____ / ____

KRA PIN Number: _____ Telephone Number: _____ Email Address: _____

Postal Address: _____ Postal

Code: _____ City: _____

Physical Residential Address: Street _____

City _____ County/State _____

Country _____

3. PERSON/ENTITIES TO BE VISITED:

Name of Person/Entity _____

: _____

Relationship with Person/Entity to be visited: _____

Reason Access is requested:

Street Address / Building:

Do you need vehicle access? YES/NO If yes please provide Reg. No.

Own Vehicle / Company Vehicle / Hired Vehicle / Government Vehicle

4. AUTHORISATIONS FROM EMPLOYER / SPONSOR

Name:

Position: _____ Organization: _____

Contact Number: _____

Signature: _____

Declaration (to be signed by applicant)

1. I declare that the information contained within this application and any attachments is true and correct and that if I willingly omit or provide information that is false I will be denied access to all SEZ facilities and SEZA can initiate legal action against me.

2. The issuer or SEZA reserves the right to restrict or deny access to any SEZ facility if operational needs of access cannot be established by the applicant

Signature Date (dd/mm/yyyy): _____ / _____ / _____

5. OFFICE USE ONLY

Application received (dd/mm/yyyy): _____ / _____ / _____ Input

By: _____

Approval (circle one): Y / N Approved by: _____ Access Pass
Card No. : _____

Date of Issue:(dd/mm/yyyy): _____ / _____ / _____ Validity

Period:(dd/mm/yyyy): _____ / _____ / _____

6. GUIDELINES

1. Cards **MUST BE DISPLAYED AT ALL TIMES** within restricted access areas while in a Special Economic Zone.
2. Cards cannot be shared or borrowed.
3. Any lost cards are to be reported immediately to the Authority or Issuer as applicable
4. Lost cards can be replaced on producing a valid Kenya Police Services Abstract and payment of a replacement fee as applicable.
5. Cards **MUST BE USED** at all times to enter and exit the Special Economic Zones
6. Pass Holders **MUST USE** their card every time they enter and exit a Special Economic Zone, even if they are a passenger in a vehicle.
7. Vehicles must enter through designated vehicle access gates
8. Pedestrians **MUST ENTER** using designated pedestrian access gates.
9. Any person who does not have a Special Economic Zone Access Pass Card and wishes to enter a restricted access areas **MUST** make prior arrangements with the zone Security Office through their host. Temporary passes may be processed at the Zone Security at the gates.
10. 48 HOURS notice required to facilitate registration of an Access Card as required.
11. No person shall be authorized to access restricted access areas unless they are engaged in legitimate related business.
12. The Special Economic Zones Pass Card remains the property of issuer and it can be withdrawn by the issuer or SEZA without any notice and whenever deemed necessary. **“IT MUST BE SURRENDERED BY THE APPLICANT ON CESSATION/TERMINATION OF EMPLOYMENT OR REASON FOR ISSUANCE OF PASS CARD**
13. Worker/Resident Access cards are valid for 1 year from date of issue.
14. Visitor Access Cards are temporary and only valid for period specified.

IMPORTANT TO NOTE

Any person failing to comply with the conditions of entry and terms of pass card usage will have their access rights for the Special Economic Zone withdrawn.

Developers may, subject to approval of the Authority, issue specific application forms with further guidelines regarding access to the special economic zones they are licensed to develop and operate. Such application forms must include the above requirements.

Dated the 11th March, 2020.

BETTY MAINA,
*Cabinet Secretary for Industrialization,
Trade and Enterprise Development.*

Report on the Process of Development and Adoption of the 2020 Amendments to the SEZ Regulations

Background:

The Kenya Special Economic Zones Program was established by Special Economic Zones Act No. 16 of 2015 to provide for the establishment of special economic zones; the promotion and facilitation of global and local investors; the development and management of enabling environment for such investments, and for connected purposes. The SEZ Authority oversees the implementation of the program in Kenya.

SEZA noted the need for further regulations to provide clarity on the operations of various actors and to help facilitate the provision of services within and from the Special Economic Zones. In this regard, the Authority in consultation with the Ministry has developed the 2020 Amendments to the SEZ Regulations.

Justification

Section 27 (7) b of the SEZ Act 2015 tasked the Cabinet Secretary to publish regulations on the application, issuance, suspension revocation and appeal process on licensing of special economic zones within one hundred and eighty days of the Act coming into force. Further, the SEZ Act 2015 39 (2) provided that Cabinet Secretary would make regulations as advised by the Authority to:

- a) determine criteria for the designation and gazetting of all special economic zones;
- b) determine the application process, criteria, conditions, terms and procedures for designation of special economic zones and licensing of special economic zone developers, operators and enterprises;
- c) determine the form of licences to be issued under this Act and the procedures from amendment and revocation of the licences;
- d) determine the general conditions of entry of persons into a special economic zone;
- e) require information from special economic zone developers, operators and enterprises;
- f) determine the rules pertaining to the establishment, functioning, operations and procedures for the special economic zones one-stop shops;
- g) determine the investment rules for special economic zones;
- h) determine the land use rules for special economic zones, development and building controls as well as utility provisions and operations; and
- i) determine the fees to be levied under this Act.

SEZ regulations were gazetted vide Legal Notice No. 147, Kenya Gazette Supplement No. 130 of 5th August 2016. While the SEZ Regulations, 2016 provided the framework for SEZA to identify / gazette Special Economic Zones and to license Special Economic Zone Developers, Operators and Enterprises, the Authority has noted the need for further regulations.

Specifically, although the Authority can currently gazette sites and license the developers, operators and enterprises, regulations to guide the movement of

people, goods and services within the Special Economic Zones. Further, the Authority needed to review the current regulations for clarity on matters raised by stakeholders.

The Development and Review Process

Development of the Proposed Regulations and Regulatory Amendments

With the identification of the need for further regulation, SEZA supported by IFC undertook a comprehensive review of the current regulations to identify and gaps therein and to inform the development of supplemental regulations.

SEZA finalized proposals for Amendments to 2016 Regulations and Supplemental Regulation in November 2019.

(a) Statement on the proof and demonstration that sufficient public consultations was conducted

The Ministry and Special Economic Zones Authority ensured that sufficient public participation was undertaken starting with meetings with internal stakeholders, collection of views from stakeholders and public participation as follows:-

In December 2019 to January 2020 the authority sought to engage various stakeholders to seek feedback on the regulations as follows.

- i. In December 2019, the authority sought input from KEPSA, KAM and KNCC via written notification on the draft regulations
- ii. In December the authority engaged with KRA directly on the draft regulations due to the critical role they play.
- iii. The ministry made available through its ministry portal the draft regulations and stakeholder comments form in December 2019
- iv. A Public Notice was issued through the Government Gazette on Tuesday January 7th 2020 alerting the public to provide comments on the draft regulations and the public stakeholder workshop.
- v. An internal Government Stakeholder Workshop was conducted on Monday January 13th 2020 (attendance register and rapporteurs report attached)
- vi. A Public Stakeholder Workshop was conducted on Wednesday January 15th 2020 with nearly 140 stakeholders participating (attendance register and rapporteurs report attached)

(b) Brief statement of all the consultations undertaken before the regulations were made

After the enactment of the SEZ Act in 2015 and gazettment of the SEZ regulations in August 2016, Special Economic Zones Authority and other stakeholders including the gazetted and licenced SEZ developers/operators identified various gaps in the SEZ regulations which required urgent attention. To address these gaps the Ministry and SEZA

sort assistant of IFC for support of review of the SEZ regulations as per the attached Advisory Agreement between the Ministry and IFC.

(c) Brief statement of the way the consultation was carried out

The Ministry and Special Economic Zones Authority ensured that sufficient public participation was undertaken starting with meetings with internal stakeholders (i.e. Public Departments and Agencies which have direct impact to the SEZ Act. They include Attorney General Office, KRA., Immigration and Labour Department

This was followed by public participations which was then followed by a retreat with officers from Ministry, SEZA, Attorney General and Law Reform Commission to consolidate all the input from various stakeholders and other inputs received by SEZA in Maazoni Lodge in January 2020.

(d) Outline of the results of the consultations

While draft supplemental regulations were submitted to the Board for consideration in December 2019, applicants, licensees and other stakeholders expressed concern with the development of multiple sets of reference documents that stakeholders would need to track in engaging with SEZA. As such, it was noted that it would be important to incorporate all new regulatory provisions as amendments to the existing regulations rather than creating new supplementary regulations

The results of the consultations was the attached reviewed SEZ regulations forward to the Ministry.

(e) Brief explanation of any changes made to the legislation as a result of the consultations

The key changes are outlined in the attached matrix. A summary of key are affected by the the changes are as follows:-

i. Definitions

Provide key definitions under the SEZ Act and Regulations that clarify the intent of the law and regulations and the applicability of various provisions to specific person / entities within the program including Special Economic Zone Resident, Special Economic Zone Visitor, Special Economic Zone Worker and Special Economic Zone End Users

ii. Guidelines for SEZ applicants

To limit speculations, this is to require applicants to demonstrate the capacity to undertake the development of their proposed zones and to provide some timelines in this regard.

iii. Requirements for Gazettement

To ease the operations of the Authority, it seeks to allow for publishing, rather than gazettelement of various process and procedures that may be applicable within the program

iv. Coordination with Other Government Agencies

To clarify the coordination role that the Authority will undertake while allowing for other government agencies to provide their services within their legal mandates

v. Entry of Persons into Special Economic Zones

A new section was added to guide the movement of persons into the Special Economic zones.

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- d) determine the general conditions of entry of persons into a special economic zone;
- e) require information from special economic zone developers, operators and enterprises;
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- g) determine the investment rules for special economic zones;
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“special economic zone visitor” means any individual who has been registered with the Authority by a special economic zone resident or entity to be temporarily present in the special economic zone;

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whether as an employee or independent contractor; and

(b) in the definition of “special economic zone end user” by inserting the following paragraph immediately after paragraph (e)

(f) special economic zone business permit holder.

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3. Regulation 11 of the principal Regulations is amended by inserting the following new sub paragraph immediately after sub paragraph (d)—

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L.N. 147/2016.

6. Regulation 34 of the principal Regulations is amended —

- (a) by inserting the words “developers, operators, enterprises, business service permit holders and” immediately after the word “zone”;
- (b) by inserting the words “as appropriate” immediately after the words “residents shall”;
- (c) in paragraph (c) by inserting the words “or registration granted” immediately after the word “issued”;
- (d) in paragraph (d) —

(i) by inserting the words “ or permit” immediately after the words “ date the licence” ;

(ii)by inserting the words “ or permit” immediately after the words “ in the licence”;

(e) in paragraph (j) by inserting the words “operator or developer immediately after the word “enterprise”.

Amendment of regulation 38 of L.N. 147/2016.

7. Regulation 38 of the principal Regulations is amended in paragraph (1) by inserting the words “, any relevant national government agency” immediately after the word “planning”.

Amendment of regulation 41 of L.N. 147/2016.

8. Regulation 41 of the principal Regulations is amended in paragraph (2)(b) by deleting the word “ enterprises” and substituting therefor the words “ end users”.

Amendment of regulation 42 of L.N. 147/2016.

9. Regulation 42 of the principal Regulations is amended by deleting paragraph (2).

10. Regulation 43 of the principal Regulations is amended by deleting paragraph (7).

Amendment of regulation 45 of L.N. 147/2016.

11. Regulation 44 of the principal Regulations is amended by deleting paragraph (5).

12. Regulation 45 of the principal Regulations is amended by deleting paragraph (4).

Insertion of a new Part IXA in L.N. 147/2016

13. The principal Regulations are amended by inserting the following new Part IXA immediately after Part IX —

PART IX A – CONDITIONS FOR ENTRY INTO SPECIAL ECONOMIC ZONES

Entry of persons into Special Economic Zones.

51A. (1) Access to a special economic zone is restricted and shall be subject to the —

- (a) presentation of a pass card at the entry point of the special economic zone;
- (b) terms and conditions applicable to the respective pass card.

(2) The Authority or a developer subject to the approval of the Authority, shall establish the type and form of pass cards for —

- (i) special economic zone workers;
- (ii) special economic zone visitors; and
- (iii) special economic zone residents.

(3) A person who wishes to enter a special economic zone shall apply for a pass card in the application form set out in the Schedule.

(4) The Authority may amend the application form set out in paragraph (2) from time to time.

(5) The Authority may charge a fee for the issuance of a pass card as it may determine.

(6) Developers may, subject to approval of the Authority, issue further guidelines regarding access to the special economic zones.

Special
Economic
Zone Workers.

51B. (1) The Authority or special economic zone developer as the case may be, shall grant a special economic zone worker's pass card to a worker of any nationality where the worker is legally employed by a special economic zone developer, operator, enterprise or business service permit holder.

(2) An application for a special economic worker's pass card shall be accompanied by —

- (a) a certified copy of the worker's employment contract; and
- (b) any required authorizations relating to labour or immigration.

(3) The Authority shall have power to request for additional information and where necessary, summon the applicants and require the production of supporting documents before granting a pass card.

(4) The pass card shall be renewable annually.

(5) The Authority or special economic zone developer may revoke the pass card if the worker is in contravention of any provisions of the Act or these Regulations.

Special
Economic
Zone
Residence

51C. (1) The following are eligible for special economic zone residence permits subject to the holder satisfying the following conditions —

Permits.

- (a) be eligible for a permanent residence permit under the applicable laws.
- (b) be in possession of a valid work permit for the applicable special economic zone;
- (c) is the owner of a special economic zone enterprise or holder of a business service permit;
- (d) any other category of persons as may be approved by the Authority

(2) Special economic zone residence permits shall be valid for the period specified in the permit unless where the permit is revoked.

(3) There shall be no limit or quota on the number of special economic zone residence permits issued by the Authority.

(4) The Authority may issue guidelines to provide for the standards, criteria and procedures for the issuance and revocation of special economic zone residence permits.

(5) The holder of a special economic zone residence permit shall notify the Authority of any changes in his or her residential address within three working days of the date of the change.

Special
Economic
Zone
Residence
Pass.

51D. (1) The Authority or developer shall grant a special economic zone residence pass card to any persons with a valid special economic zone residence permit.

(2) An application for a special economic zone residence pass card shall be accompanied by a certified copy of a lease or other document validating a right to the residential property.

(3) Where a resident has acquired and maintained a special economic zone residence permit, the special economic zone resident's spouse and dependants shall acquire and maintain the status of special economic zone residence during the period that the principal resident maintains his or her status as a special economic zone resident under these Regulations.

(4) The residence pass shall allow holders access to their place of residence.

(5) The residence pass shall be renewable annually.

Special
Economic
Zone Visitor
Pass.

51E. (1) The Authority or developer may grant a special economic zone visitor pass card to a special economic zone visitor.

(2) Recipients of special economic zone visitor pass cards shall be subject to specific terms and conditions as may be determined by the Authority.

14. The principal Regulations are amended by inserting the following new regulation immediately after regulation 53 —

Maintenance of
an Electronic
Register.

51E. (1) Any non-Kenyan intending to invest, do business, work or reside in a special economic zone shall register his or her presence at the one-stop shop within five days of arrival in the special economic zone.

2) A Kenyan applying for a special economic zone residence permit shall register his or her presence at any one stop shop service centre no later than thirty days of relocation into the special economic zone.

SCHEDULE

r.51A(3)



SPECIAL ECONOMIC ZONES AUTHORITY

UAP Old Mutual Tower, 14th Floor, Upper Hill Road

P.O Box 30418-00100, GPO

Nairobi, Kenya

Tel: +254 20 7863971

Email: info@sezauthority.go.ke

Website: www.sezauthority.go.ke

Part I - Special Economic Zones Pass Card Application Requirements

(Applications must be completed in NEAT AND LEGIBLE manner)

1. Please Select one of the Special Economic Zone Pass Card Types

Worker Visitor Resident

Application Date (dd/mm/yyyy): ____/____/____

Have you ever received a Special Economic Zones Pass Card? YES/ NO (please circle)

If yes, please provide the Card

No.: _____

2. PERSONAL DETAILS:

Mrs/Mr/Miss/Ms (please circle) First Name: Middle Name: Last Name:

Gender (please circle): M / F Date of Birth (dd/mm/yyyy): ____/____/____

Nationality: _____ ID (Kenyan Citizens): _____

Passport Number (Non Kenyans): _____ Expiry

Date (dd/mm/yyyy): ____/____/____

KRA PIN Number: _____ Telephone Number: _____ Email Address: _____

Postal Address: _____ Postal

Code: _____ City: _____

Physical Residential Address: Street _____

City _____ County/State _____

Country _____

3. Person/Entities to be visited:

Name of Person/Entity

Relationship with Person/Entity to be visited:

Reason Access is requested: _____

Street Address / Building: _____

Do you need vehicle access? YES/NO If yes please provide Reg. No. _____

Own Vehicle / Company Vehicle / Hired Vehicle / Government Vehicle

4. AUTHORISATIONS FROM EMPLOYER / SPONSOR

Name:

Position:

Organization: _____

Contact Number: _____

Signature: _____

Declaration (to be signed by applicant)

1. I declare that the information contained within this application and any attachments is true and correct and that if I willingly omit or provide information that is false I will be denied access to all SEZ facilities and SEZA can initiate legal action against me.

2. The issuer or SEZA reserves the right to restrict or deny access to any SEZ facility if operational needs of access cannot be established by the applicant

Signature Date (dd/mm/yyyy): _____ / _____ / _____

5. OFFICE USE ONLY

Application received (dd/mm/yyyy): _____ / _____ / _____ Input

By: _____

Approval (circle one): Y / N Approved by: _____ Access Pass Card

No. : _____

Date of Issue:(dd/mm/yyyy): _____ / _____ / _____ Validity Period:(dd/mm/yyyy): _____ / _____ / _____

6. GUIDELINES

1. Cards MUST BE DISPLAYED AT ALL TIMES within restricted access areas while in a Special Economic Zone.
2. Cards cannot be shared or borrowed.
3. Any lost cards are to be reported immediately to the Authority or Issuer as applicable
4. Lost cards can be replaced on producing a valid Kenya Police Services Abstract and payment of a replacement fee as applicable.

5. Cards MUST BE USED at all times to enter and exit the Special Economic Zones
6. Pass Holders MUST USE their card every time they enter and exit a Special Economic Zone, even if they are a passenger in a vehicle.
7. Vehicles must enter through designated vehicle access gates
8. Pedestrians MUST ENTER using designated pedestrian access gates.
9. Any person who does not have a Special Economic Zone Access Pass Card and wishes to enter a restricted access areas MUST make prior arrangements with the zone Security Office through their host. Temporary passes may be processed at the Zone Security at the gates.
10. 48 HOURS notice required to facilitate registration of an Access Card as required.
11. No person shall be authorized to access restricted access areas unless they are engaged in legitimate related business.
12. The Special Economic Zones Pass Card remains the property of issuer and it can be withdrawn by the issuer or SEZA without any notice and whenever deemed necessary. "IT MUST BE SURRENDERED BY THE APPLICANT ON CESSATION/TERMINATION OF EMPLOYMENT OR REASON FOR ISSUANCE OF PASS CARD
13. Worker/Resident Access cards are valid for 1 year from date of issue.
14. Visitor Access Cards are temporary and only valid for period specified.

IMPORTANT TO NOTE

Any person failing to comply with the conditions of entry and terms of pass card usage will have their access rights for the Special Economic Zone withdrawn.

Developers may, subject to approval of the Authority, issue specific application forms with further guidelines regarding access to the special economic zones they are licensed to develop and operate. Such application forms must include the above requirements.

Made on the, 2020.

**BETTY MAINA,
Cabinet Secretary for Industrialization,
Trade and Enterprise Development.**

Report on the Process of Development and Adoption of the 2020 Amendments to the SEZ Regulations

Background:

The Kenya Special Economic Zones Program was established by Special Economic Zones Act No. 16 of 2015 to provide for the establishment of special economic zones; the promotion and facilitation of global and local investors; the development and management of enabling environment for such investments, and for connected purposes. The SEZ Authority oversees the implementation of the program in Kenya.

SEZA noted the need for further regulations to provide clarity on the operations of various actors and to help facilitate the provision of services within and from the Special Economic Zones. In this regard, the Authority in consultation with the Ministry has developed the 2020 Amendments to the SEZ Regulations.

Justification

Section 27 (7) b of the SEZ Act 2015 tasked the Cabinet Secretary to publish regulations on the application, issuance, suspension revocation and appeal process on licensing of special economic zones within one hundred and eighty days of the Act coming into force. Further, the SEZ Act 2015 39 (2) provided that Cabinet Secretary would make regulations as advised by the Authority to:

- a) determine criteria for the designation and gazetting of all special economic zones;
- b) determine the application process, criteria, conditions, terms and procedures for designation of special economic zones and licensing of special economic zone developers, operators and enterprises;
- c) determine the form of licences to be issued under this Act and the procedures from amendment and revocation of the licences;
- d) determine the general conditions of entry of persons into a special economic zone;
- e) require information from special economic zone developers, operators and enterprises;
- f) determine the rules pertaining to the establishment, functioning, operations and procedures for the special economic zones one-stop shops;
- g) determine the investment rules for special economic zones;
- h) determine the land use rules for special economic zones, development and building controls as well as utility provisions and operations; and
- i) determine the fees to be levied under this Act.

SEZ regulations were gazetted vide Legal Notice No. 147, Kenya Gazette Supplement No. 130 of 5th August 2016 .While the SEZ Regulations, 2016 provided the framework for SEZA to identify / gazette Special Economic Zones and to license Special Economic Zone Developers, Operators and Enterprises, the Authority has noted the need for further regulations.

Specifically, although the Authority can currently gazette sites and license the developers, operators and enterprises, regulations to guide the movement of people, goods and services within the Special Economic Zones. Further, the

Authority needed to review the current regulations for clarity on matters raised by stakeholders.

The Development and Review Process

Development of the Proposed Regulations and Regulatory Amendments

With the identification of the need for further regulation, SEZA supported by IFC undertook a comprehensive review of the current regulations to identify and gaps therein and to inform the development of supplemental regulations.

SEZA finalized proposals for Amendments to 2016 Regulations and Supplemental Regulation in November 2019.

(a) Statement on the proof and demonstration that sufficient public consultations was conducted

The Ministry and Special Economic Zones Authority ensured that sufficient public participation was undertaken starting with meetings with internal stakeholders, collection of views from stakeholders and public participation as follows:-

In December 2019 to January 2020 the authority sought to engage various stakeholders to seek feedback on the regulations as follows.

- i. In December 2019, the authority sought input from KEPSA, KAM and KNCC via written notification on the draft regulations
- ii. In December the authority engaged with KRA directly on the draft regulations due to the critical role they play.
- iii. The ministry made available through its ministry portal the draft regulations and stakeholder comments form in December 2019
- iv. A Public Notice was issued through the Government Gazette on Tuesday January 7th 2020 alerting the public to provide comments on the draft regulations and the public stakeholder workshop.
- v. An internal Government Stakeholder Workshop was conducted on Monday January 13th 2020 (attendance register and rapporteurs report attached)
- vi. A Public Stakeholder Workshop was conducted on Wednesday January 15th 2020 with nearly 140 stakeholders participating (attendance register and rapporteurs report attached)

(b) Brief statement of all the consultations undertaken before the regulations were made

After the enactment of the SEZ Act in 2015 and gazettelement of the SEZ regulations in August 2016, Special Economic Zones Authority and other stakeholders including the gazetted and licenced SEZ developers/operators identified various gaps in the SEZ regulations which required urgent attention. To address these gaps the Ministry and SEZA sort assistant of IFC for support of review of the SEZ regulations as per the attached Advisory Agreement between the Ministry and IFC.

(c) Brief statement of the way the consultation was carried out

The Ministry and Special Economic Zones Authority ensured that sufficient public participation was undertaken starting with meetings with internal stakeholders (i.e. Public Departments and Agencies which have direct impact to the SEZ Act. They include Attorney General Office, KRA, Immigration and Labour Department

This was followed by public participations which was then followed by a retreat with officers from Ministry, SEZA, Attorney General and Law Reform Commission to consolidate all the input from various stakeholders and other inputs received by SEZA in Maazoni Lodge in January 2020.

(d) Outline of the results of the consultations

While draft supplemental regulations were submitted to the Board for consideration in December 2019, applicants, licensees and other stakeholders expressed concern with the development of multiple sets of reference documents that stakeholders would need to track in engaging with SEZA. As such, it was noted that it would be important to incorporate all new regulatory provisions as amendments to the existing regulations rather than creating new supplementary regulations

The results of the consultations was the attached reviewed SEZ regulations forward to the Ministry.

(e) Brief explanation of any changes made to the legislation as a result of the consultations

The key changes are outlined in the attached matrix. A summary of key changes affected by the changes are as follows:-

i. Definitions

Provide key definitions under the SEZ Act and Regulations that clarify the intent of the law and regulations and the applicability of various provisions to specific person / entities within the program including Special Economic Zone Resident, Special Economic Zone Visitor, Special Economic Zone Worker and Special Economic Zone End Users

ii. Guidelines for SEZ applicants

To limit speculations, this is to require applicants to demonstrate the capacity to undertake the development of their proposed zones and to provide some timelines in this regard.

iii. Requirements for Gazettement

To ease the operations of the Authority, it seeks to allow for publishing, rather than gazettement of various process and procedures that may be applicable within the program

iv. Coordination with Other Government Agencies

To clarify the coordination role that the Authority will undertake while allowing for other government agencies to provide their services within their legal mandates

v. Entry of Persons Into Special Economic Zones

A new section was added to guide the movement of persons into the Special Economic zones.